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10/669,171	09/23/2003	Brian Gonsalves	1033-SS00419	1698
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TOLER SCHAFFER, LLP			HUYNH, BA	
8500 BLUFFSTONE COVE				
SUITE A201			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/669,171

Applicant(s)

GONSALVES ET AL.

Examiner

Ba Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-26 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-26, 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 16-26 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over us 2003/0028890 (Swart et al), in view of US 7,054,291 (Balazinski et al).
 - As for claims 16, 24: Swart et al (herein Swart) teach a computer implemented method and corresponding apparatus of network services comprising a video content source operable to output an information stream in response to a delivery request (0043-0047) and further operable to discontinue output of the information stream in response to a cease request (0071), the video content source having a unique address (inherently include in the teaching of web site and online databases), an engine for maintaining a list of available content sources comprising video content sources (0045, 0048), an access engine operable to receive user input from a user device (0048), the user input includes the search results mapable to the unique address and indicating a desire for the video stream (0045, 0046), and service engine coupled to the access engine and operable to initiate establishment of at least a portion of a point-to-point microwave communication link between the user device and the video source (0101), the network service engine further operable to initiate sending of the delivery request (0043-0047) and to track a metric associated with user access to the information system (0056). Although Swart clearly teach point-to-point microwave communication link between the user device and the video source (101, 107), and that the user device and the video source can be connected through Wide Area

Network/Internet and can be supported by any protocol (0065, 0092, 0096, 0107, 0112). Since point-to-point protocol communication link, which was developed by the Internet Engineering Task and has become the de facto Wide Area network link protocol, implementation of the point-to-point protocol communication link between the user device and the video source is inherently included in Swart's teaching of point-to-point microwave link. Even if it is not, implementation of point-to-point protocol communication link is well known in the art of information processing as is disclosed by Balazinski et al (Balazinski's 1:56-67, 2:1-67. Further teachings of point-to-point communication protocol and point-to-point connection negotiation can be found in US 7,149,224, 1:12-2:48; US 6,160,808, 1:19-64). It would have been obvious to one of skill in the art, at the time the invention was made, to combine the well-known implementation of point-to-point protocol communication link to Swart's teaching of communication protocol. Motivation of the combining is for the obvious advantage of being well recognized protocol and as suggested by Swart as set forth above (i.e., the system may support any protocol). The metric is selected from a group consisting of information throughput and connection duration (0020, 0056, 0059, 0109). The system further comprises a billing engine to generate an invoice based on the metric (0059, 0072).

- As for claim 17: Swart fails to clearly teach notifying the consumer the cost of service and receiving payment prior to service. However official notice is taken that implementation of notifying the consumer the cost of service and receiving payment prior to service would have been an obvious method of doing business.

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- As for claim 18: A telephone interface associated with the access engine (0048).
User input can be received via a voice recognition system 219, 226. Thus the conversion of voice input to a request for connection appears inherently include, or even if it is not would have obvious to one of skill in the art in light of Swart's teaching of the voice recognition system and the telephone interface for providing a supplement input interface.
- As for claim 19: The system further includes a list of video content sources each having a unique address (0044, 0045, 0048). The service engine operable to facilitate point-to-point protocol over Ethernet communication link (0076, 0101). Notifying the consumer the cost of service and receiving payment prior to service would have been an obvious method of doing business.
- As for claim 20: The metric includes information throughput and connection duration (0020, 0056, 0059, 0109). Tracking quality of service and peak bandwidth would have been obvious method of doing business in video transmission.
- As for claim 21: Implementation of converting variable bit rate to constant bit rate stream would have been obvious for better video quality and bandwidth control.
- As for claim 22: It is implicitly included that the video content source toggle from not output to output state responsive to an accepted video transfer request.
- As for claim 23: At least a portion of the request comprises a format selected from the group consisting of a dual tone multi-frequency signal, a TCP/IP packet, and a voice signal (0045, 0064, 0074, 100).

- As for claim 25: In light of the rejection set forth in claim 1, it is inherently included in that data indicating a plurality of connection options is sent to the video content source in a negotiation process (Balazinski's 1:56-67, 2:1-67. Further teachings of point-to-point communication protocol and point-to-point connection negotiation can be found in US 7,149,224, 1:12-2:48; US 6,160,808, 1:19-64).
- As for claim 26: Connection information is stored in a profile associated with the user terminal (Balazinski's 3:46-4:5). The connection information includes the address of the video content source (Swart's teaching of website; Balazinski's 1:64-65) and at least one connection rule (Balazinski's 2:44-67, i.e., option with parameter supportable by the server).
- As for claim 40: Swart et al (herein Swart) teach a computer implemented method and corresponding apparatus of network services comprising a video content source operable to output an information stream in response to a delivery request (0043-0047) and further operable to discontinue output of the information stream in response to a cease request (0071), the video content source having a unique address (inherently include in the teaching of web site and online databases), an engine for maintaining a list of available content sources comprising video content sources (0045, 0048), an access engine operable to receive user input from a user device (0048), the user input includes the search results mapable to the unique address and indicating a desire for the video stream (0045, 0046), and service engine coupled to the access engine and operable to initiate establishment of at least a portion of a point-to-point microwave communication link between the user device and the video

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source (0101), the network service engine further operable to initiate sending of the delivery request (0043-0047). Swart clearly teach point-to-point microwave communication link between the user device and the video source (101, 107), and that the user device and the video source can be connected through Wide Area Network/Internet and can be supported by any protocol (0065, 0092, 0096, 0107, 0112). Since point-to-point protocol communication link, which was developed by the Internet Engineering Task and has become the de facto Wide Area network link protocol, implementation of the point-to-point protocol communication link between the user device and the video source is inherently included in Swart's teaching of point-to-point microwave link. Even if it is not, implementation of point-to-point protocol communication link is well known in the art of information processing as is disclosed by Balazinski et al (Balazinski's 1:56-67, 2:1-67. Further teachings of point-to-point communication protocol and point-to-point connection negotiation can be found in US 7,149,224, 1:12-2:48; US 6,160,808, 1:19-64). It would have been obvious to one of skill in the art, at the time the invention was made, to combine the well-known implementation of point-to-point protocol communication link to Swart's teaching of communication protocol. Motivation of the combining is for the obvious advantage of being well recognized protocol and as suggested by Swart as set forth above (i.e., the system may support any protocol).

Response to Arguments

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2. Applicant's arguments filed 10/27/07 have been fully considered but they are not persuasive.

REMARKS:

The Swart et al. reference: Swart et al teach a network service method and corresponding means for requesting connection to a video content source operable to output an information stream. The request for connection is made by user selection from a list of contents (par 0066, lines 6-13). This is similar to the appellant's description in par. 0049 of the specification. Note that each item in the list of content is associated with an address of the content file. More importantly, the user may make a request for connection by directly specify a network address in a query (par 0073, line 16-17, wherein the user requests for connection by specifying a service provider). Responsive to the request for connection, the system determines the address of the video content source (0066: "data indicating the source of the content", "appropriate remote source". Note also that each of the source contents is point to an address in a source database), establishes communication link with the user, and delivers the content to the user (0081, 0085; figure 9A-C). The system tracks a metric associated with communication of the information stream (0020, 0021, 0086, 0088, 0116) and generates a billing record based on the metric (0020, 0021, 0086, 0088, 0116). The metric includes viewing statistics such as number of time viewed, date/time viewed, usage rights and fees (0045), and bandwidth available (0088). Request for connection can be made via voice input which will be converted by a speech recognition (0064, 0073, 0074). Swart discloses that the system downloads content by forming a direct link 205 between the video content source and the user terminal (0047, 0066), or through a point-to-point microwave network which appears read on the claimed limitation "point-to-point

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protocol communication link” (“point-to-point protocol” is commonly defined as a data link protocol for dial up telephone connections such as between a computer and the Internet). Even if it is not, it would have been obvious to one of skill in the art to implement the point-to-point protocol communication link to Swart. Motivation of the combining is for the well-known advantage that PPP provides better protection for data integrity and security.

The arguments:

In response to the argument that the combined Swart and Balazinski does not teach initiating formation of at least a portion of a point-to-point protocol communication link with video content source, Swart discloses that the system downloads content by forming a direct link 205 between the video content source and the user terminal (0047, 0066), or through a point-to-point microwave network, thus the claimed limitation “point-to-point protocol communication link” is inherently included in Swart (“point-to-point protocol” is commonly defined as a data link protocol for dial up telephone connections such as between a computer and the Internet). Even if it is not, it would have been obvious to one of skill in the art to implement the point-to-point protocol communication link to Swart. Motivation of the combining is for the well-known advantage that PPP provides better protection for data integrity and security.

In response to the argument that Swart does not teach converting from variable bit rate to constant bit rate stream, the argument is irrelevant since the appellant is attacking Swart alone while the rejection is based on an obviousness reasoning in light of Swart. Converting from variable bit rate to constant bit rate stream is well known as set forth in the rejection. Combining converting from variable bit rate to constant bit rate stream to Swart would have been obvious to one of skill in the art for better video quality and bandwidth control.

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As for claim 25, it is inherently included in that data indicating a plurality of connection options is sent to the video content source in a negotiation process (Balazinski's 1:56-67, 2:1-67. Further teachings of point-to-point communication protocol and point-to-point connection negotiation can be found in US 7,149,224, 1:12-2:48; US 6,160,808, 1:19-64).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (571) 272-4138. The examiner can normally be reached on Mon - Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ba Huynh
Primary Examiner
AU 2179
11/08/07

BA HUYNH
PRIMARY EXAMINER